

1 (Proceedings commence at 1:21 p.m.)

2 THE CLERK: The Court calls the following for
3 initial appearance and guilty plea: 1:21-CR-104, The
4 United States of America vs. David Byron Seibert.

5 MS. FERNALD: Doug Gardner and Michelle Fernald
6 for the United States.

7 Good afternoon.

8 MR. ROARK: Brian Roark for Mr. Seibert, your
9 Honor.

10 THE COURT: Good afternoon to the lawyers.

11 Good afternoon to you, Mr. Seibert. You are
12 here, as I understand it, for the purpose of the entry of
13 a plea. If that is what you intend to do here today, here
14 in a moment, I'm going to ask you to take an oath, an oath
15 to tell the truth. But I need to warn you, before you
16 take this oath, that everything that you say after doing
17 so must be truthful, otherwise, you subject yourself to
18 the penalties of perjury and false statement.

19 With that warning out of the way, sir, please,
20 raise your right hand and you'll be sworn.

21 THE CLERK: Do you solemnly swear or affirm that
22 the testimony which you may give in this case before the
23 Court shall be the truth, the whole truth, and nothing but
24 the truth?

25 THE DEFENDANT: I do.

1 THE COURT: Thank you, Mr. Seibert.

2 Can I please get your full name, age and date of
3 birth for the record.

4 THE DEFENDANT: David Byron Seibert, Jr., 56,
5 date of birth 10-10-64.

6 THE COURT: Thank you.

7 In order to take your plea today, I'll be asking
8 you a series of questions. If I ask you a question that
9 you don't understand, let me know that, and I'll rephrase
10 it for you because I want to ensure that you understand
11 everything that's happening this afternoon.

12 Now, Mr. Roark's here to continue to look out for
13 you. If at any point during our discussion, you need time
14 to visit with your lawyer privately, let me know that, and
15 I'll give you as much time as you need to talk with your
16 lawyer.

17 The first issue that I need to discuss with you
18 is the fact you actually have the right to enter your plea
19 in front of the district judge who's ultimately going to
20 be responsible for determining your sentence. And that's
21 -- in your case, it's District Judge Robert Pitman. But
22 if you and your lawyer believe it's appropriate, you can
23 enter your plea this afternoon in front of a magistrate
24 judge, such as myself, instead. And in this regard, I see
25 a form that's been signed by you and your lawyer that does

1 just that.

2 And so, let me just put it to you squarely. Is
3 it your desire to waive and give up your right to enter
4 your plea in front of Judge Pitman and, instead, do it
5 this afternoon in front of me?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: All right, sir. Then that is what we
8 will do.

9 My next set of questions are going to be directed
10 to the attorneys. The first is not so much a question.
11 But, Ms. Fernald, pursuant to the Due Process Protections
12 Act, as you undoubtedly know, the United States is
13 required to provide all exculpatory evidence as that is
14 defined by Brady vs. Maryland and its progeny. Failure to
15 do so subjects the United States to potential -- a myriad
16 of sanctions, including dismissal and potential contempt
17 and sanctions.

18 Do you understand this warning, ma'am?

19 MS. FERNALD: I do, your Honor.

20 THE COURT: Thank you.

21 Mr. Roark, have you had enough time to visit with
22 your client about the charges that he faces in this case?

23 MR. ROARK: I have, your Honor.

24 THE COURT: Have you discussed any defenses to
25 the charges you believe that he might have had?

1 MR. ROARK: I have, your Honor.

2 THE COURT: And have you also spoken with him
3 about the number of important rights that he has, but
4 rights that he'll be giving up today, by offering a plea?

5 MR. ROARK: I have.

6 THE COURT: Have you also spoken with him about
7 the importance of the sentencing guidelines and the other
8 factors that Judge Pitman will consider in arriving at his
9 eventual sentence?

10 MR. ROARK: We have discussed that at length,
11 your Honor.

12 THE COURT: Very good. And having done all this,
13 does he have a factual and rational understanding of what
14 he's charged with and what he's doing here today?

15 MR. ROARK: I believe he does.

16 THE COURT: And then, lastly, do you believe he's
17 competent to enter a plea?

18 MR. ROARK: I believe he's competent.

19 THE COURT: Thank you, Mr. Roark.

20 Mr. Seibert, have you had enough time to visit
21 with your lawyer about the charges that you face in this
22 case?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And have you told him everything that
25 you know about the facts and circumstances that led to the

1 filing of these charges?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: And are you suffering this afternoon
4 from any mental or physical condition, or are you under
5 the influence of any drugs, alcohol, or medicine that
6 interfere with your ability to understand my questions and
7 what we're doing here today?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: Are you satisfied with the
10 representation that your lawyer's provided to you?

11 THE DEFENDANT: Very much, your Honor.

12 THE COURT: And just so there's no
13 misunderstanding, any complaints whatsoever about the
14 performance of your lawyer?

15 THE DEFENDANT: No, your Honor.

16 THE COURT: All right. Thank you, sir.

17 Mr. Seibert, my understanding is that you're
18 proceeding this afternoon on the basis of a plea
19 agreement. That is an agreement that you, your lawyer and
20 the lawyers for the government have reached with regard to
21 your case. That document is lengthy. It's now been
22 signed by everyone and is on file with the district
23 clerk's office. And I have several questions for you
24 about it.

25 Before you signed your plea agreement, did you

1 read it in its entirety?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: And before you signed your plea
4 agreement, did you review it carefully with your lawyer?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: And before you signed that plea
7 agreement, was your lawyer able to answer any questions
8 that you had about its contents?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Reminding you that you're under oath,
11 are you telling me, then, that you understand this plea
12 agreement?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: And do you agree to follow it and be
15 bound by it in the future?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right, sir. I'm going to take
18 you at your word. I'm not going to read this whole
19 document to you now. However, there are a couple of
20 issues I need to address with you in greater detail.

21 First is very important. It's set out on pages
22 10 and 11 of the plea agreement and basically it's this,
23 Mr. Seibert. If Judge Pitman accepts this plea agreement
24 and sentences you pursuant to it, you'll be waiving and
25 giving up your right to an appeal in this case.

1 Do you understand this?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Just to elaborate briefly, it means
4 that you're giving up the right to complain about any
5 aspect of your conviction or your sentence on either a
6 direct appeal or later on down the road, when you're
7 serving your sentence. Either way, you're giving up the
8 right to complain about any aspect of your conviction or
9 your sentence.

10 Do you understand the significance of this?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, you and your lawyer have
13 negotiated an important provision on page 3 -- well,
14 actually, there are several. The first is a stipulation
15 between the party as to the loss amount. Let me get my
16 bearings here. Hold on. Basically it's a nonbinding
17 agreement -- I'll talk about what that means in a minute
18 -- between you and the lawyers for the government that the
19 loss in your case as that term is defined under the wire
20 fraud statute is not greater than \$25 million.

21 In addition to that, there's a non-binding
22 recommendation that the government will not recommend, I
23 guess, an upward departure or anything like that. But
24 they can recommend a sentence as high as the upper end of
25 the guideline range. That's possible.

1 And then, the last agreement is that the
2 government is going to -- agrees to recommend to the Court
3 that the sentences for both the wire fraud and
4 money-laundering counts be run concurrently, that is,
5 they're not stacked on top of each other.

6 Now, all of these agreements that I've just
7 mentioned are very important and, in my experience, Judge
8 Pitman will strongly consider them, but here's the
9 important "but." Judge Pitman's not bound by that. He
10 could determine that you're responsible for something
11 higher than 25 million, or that these sentences should be
12 stacked, or that a sentence above the guideline range is
13 appropriate. The Judge could do all of that, and he
14 wouldn't be in violation of your plea agreement.

15 Do you understand this possibility?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: All right. There are also some
18 important financial conditions in the plea agreement. The
19 first is a requirement -- it's rooted in the law that is a
20 requirement that you pay restitution to any victims of the
21 offense for which you've pled guilty. But in this plea
22 agreement, it makes it very clear that you're also going
23 to be required to pay a restitution attributable to any
24 relevant conduct as that term is described under the
25 guidelines.

1 Now, there's a very specific dollar amount here,
2 \$10,794,508 in potential restitution, and again, in my
3 experience that's probably pretty close, given the amount
4 of investigative work the government's probably conducted.
5 But I'm just alerting you to the possibility that the
6 restitution could be higher if Judge Pitman determines it
7 should be higher.

8 Do you understand this?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: The other provision as it relates to
11 finances is financial -- the forfeiture of some property
12 and potential forfeiture an acquisition of money judgments
13 by the government. That's set on pages 12 and 13 of your
14 plea agreement and there are one, two, three, four, four
15 specific items.

16 And then, it says any owe -- and all other items
17 used or intended to be used in the commission of the
18 criminal offenses and then, significantly a money judgment
19 there in the potential amount of \$14,993,033. These are
20 all forfeiture issues for which the government can move
21 forward and seek the forfeiture of your right, title and
22 interest in that specific property and in this money
23 judgment.

24 Do you understand all this, sir?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Ms. Fernald, or, Mr. Gardner,
2 anything else that y'all want me to talk about in this
3 plea agreement?

4 MS. FERNALD: No, your Honor.

5 THE COURT: And then, Mr. Roark, anything else
6 that you'd like me to address?

7 MR. ROARK: No, your Honor.

8 THE COURT: All right. Thank you.

9 All right. Mr. Seibert, the plea agreement
10 contemplates you enter a guilty plea to Count 1 of an
11 information that's been filed. It's -- that information
12 is 12 pages long and it memorializes two separate criminal
13 violations. The first being wire fraud, in violation of
14 Title 18, United States Code, Section 1343, as well as the
15 money-laundering charge, in violation of Title 18, United
16 States Code, Section 1957.

17 Now, like the plea agreement, this document is
18 lengthy, as well. Before coming to court today, did you
19 read this entire charge?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And have you reviewed it carefully
22 with Mr. Roark?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And was he able to explain any
25 questions that you may have had about the contents of this

1 charge?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Charges, I should say. Again,
4 reminding you that you're under oath, do you understand
5 what you're charged with in Count 1 and 2?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: All right. Well, again, sir, I'm
8 going to take you at your word. I'm not going to read
9 this entire thing to you now but I -- it's necessary that
10 I read at least the hearts or guts of it. And so, let's
11 start with the wire fraud count, which is Count 1.

12 It states that from in or about 2016, and
13 continuing until in or about May 2019, in the Western
14 District of Texas and elsewhere, that you having devised
15 and intended to devise a scheme and artifice to defraud
16 and to obtain money and property by means of false,
17 misleading and fraudulent pretenses, representations and
18 promises and omissions of material facts, that you did
19 knowingly cause to be transmitted by wire, radio or
20 television communication in interstate or foreign commerce
21 a wire transfer of funds constituting and containing a
22 writing, sign, signal, picture and sound for the purpose
23 of executing, and attempting to execute, the scheme and
24 artifice described in this indictment.

25 Are you with me so far?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. And then, having told me
3 that you've gone through this and understand it, it goes
4 on to list one, two, three, four, five, six different
5 wires, if you will, with investor names, dollar amounts
6 and dates.

7 And have you satisfied yourself that all of that
8 is accurate, as well?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Now, Mr. Seibert, if you do plead
11 guilty to Count 1, you'll be subjecting yourself to the
12 following statutory punishment range: A term in federal
13 prison of not more than 20 years to be followed by a
14 supervised release term of not more than three years, a
15 fine that could be as high as \$250,000 or twice the loss
16 or gain associated with the conduct to which you're
17 pleading, which given the dollar amounts we're talking
18 about is an astronomical amount of potential fine here
19 and, the least of your problems, a \$100 mandatory special
20 assessment.

21 Do you understand the statutory range of
22 punishment in relation to Count 1?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: All right. Mr. Seibert, Count 2 is
25 different. It's a money-laundering count and charges from

1 in or about again 2016, and continuing until on or about
2 May of 2019, in the Western District of Texas, that you
3 did knowingly engage, and attempt to engage, in a monetary
4 transaction by, through, or to a financial institution
5 affecting interstate or foreign commerce in criminally
6 derived property of a value greater than \$10,000, that is,
7 deposit, withdrawal, transfer, exchange of U.S. currency,
8 funds and money instruments -- monetary instruments. Such
9 property have been derived from the specified unlawful
10 activity, that is, the wire fraud count that we spoke
11 about a moment ago in Count 1. And like the wire fraud
12 count, the money-laundering count goes on to describe two
13 specific monetary transactions.

14 And have you satisfied yourself that those
15 monetary transactions are accurately described?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: All right. If you do enter a plea of
18 guilty with regard to Count 2 of the indictment, Mr.
19 Seibert, you'll be subjecting yourself to another
20 statutory range of punishment: A term -- excuse me, a
21 term in federal prison of not more than 10 years to be
22 followed by a supervised release term of not more than
23 three years, again, a fine of \$250,000 or twice the loss
24 or gain associated with the conduct described in Count 2
25 and, again, a \$100 mandatory special assessment.

1 Do you understand this separate statutory
2 punishment range?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Now, I need to tell you that the
5 district judge in the case that you're pleading guilty to
6 here today has the right and the authority, though, as we
7 talked about earlier to stack these counts on top of each
8 other, meaning you could receive a sentence of putting
9 them together not more than 30 years in relation to these
10 two counts.

11 Do you understand this, at least this
12 possibility?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: All right. There's no parole in our
15 federal system. This means if you're required to serve a
16 penitentiary sentence, you need to go into this knowing
17 and believing you're going to serve all that time. You're
18 not going to be released early on the equivalent of a
19 parole release as that phrase is commonly used with
20 reference to the Texas criminal justice system.

21 Instead, we have what's called supervised
22 release. And what this means is, the day you complete
23 your prison sentence, you'll begin a term of supervised
24 release. And while you're technically no longer in
25 custody, you will be required to comply with a number of

1 conditions that will be explained to you by the judge at
2 the time of your sentencing hearing.

3 But importantly, if you violate any of these
4 conditions, that term of supervised release can be
5 revoked, and you can be sent back to federal prison
6 without any credit for any time you may have served in
7 prison before the supervised release term began.

8 So do you understand that you're facing a term of
9 supervised release and what will happen if you violate its
10 condition?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Are you a U.S. citizen?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: The district judge in making a
15 determination as to whether to accept your plea agreement
16 and as to what your eventual sentence will be is first
17 going to consult with something called the sentencing
18 guidelines. These guidelines provide a framework within
19 which the judge is to examine your history and your
20 background as well as the nature and circumstances of the
21 offenses that you've pled guilty to.

22 When the judge has completed this investigation,
23 he arrives at what is called the appropriate sentencing
24 guideline range. This is a range of punishment that the
25 judge should strongly consider in arriving at your

1 eventual sentence. It typically extends from a low number
2 of months in prison to a higher number of months in
3 prison, between which the judge could sentence you, and
4 this is presumed to be a reasonable sentence.

5 But as important as these guidelines are, they're
6 not binding upon the judge. This is because the judge is
7 obligated to consider and review a number of other
8 factors, as well, meaning you could receive a sentence
9 below that guideline range, but importantly, you could
10 receive a sentence above it. If the judge were to do
11 either of these things, he would tell you why he was doing
12 it in open court, and it would be a function of his
13 obligation to review these other factors, factors I want
14 to summarize for you now.

15 They again include a careful review of your
16 history and your background as well as the nature and
17 circumstances of the offenses to which you have pled. It
18 includes the seriousness of those offenses, the need to
19 promote respect for the law, the need to protect the
20 public, the need to provide you with a just punishment,
21 the need to deter you from committing criminal offenses
22 like this or others in the future, the need to treat you
23 fairly as compared to a man who's similarly situated and
24 charged, and lastly, the need to provide you with any
25 job-related training, medical care, educational

1 opportunities if the judge believed any of that was
2 appropriate in your case.

3 Now I've told you about the sentencing guidelines
4 and these other factors so that I can ask you several,
5 questions, the first of which is this:

6 Do you understand the important role that the
7 sentencing guidelines will play in arriving at your
8 sentence?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: But do you understand these
11 guidelines are not binding upon Judge Pitman, and he's
12 also going to review these other factors, as well, in
13 arriving at that sentence?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Now, as you may recall when we got
16 started, I asked Mr. Roark if he had spoken with you about
17 the guidelines and these factors, and he told me that he
18 had done that and that doesn't surprise me. Mr. Roark's a
19 good lawyer and that's what good lawyers are supposed to
20 do. They're supposed to share with you their wisdom and
21 their experience as it relates to what they believe the
22 district judge may or may not do at your sentencing
23 hearing.

24 Mr. Roark has probably gone so far as to attempt
25 to predict that guideline range, and again, that's

1 perfectly appropriate. That's what he's supposed to do.
2 But do you recognize that all of that is his best guess
3 and estimate? None of that is binding upon Judge Pitman,
4 and Judge Pitman will arrive at his own independent
5 conclusion as to what your sentence should be.

6 Do you understand this distinction?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: So here's the very difficult position
9 that you're in, Mr. Seibert, before you offer a plea. You
10 simply do not know what your sentence will be. All you
11 know with certainty is that it will not be greater than 30
12 years in federal prison.

13 Do you understand this?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Mr. Seibert, by entering pleas today,
16 you'll be waiving and giving up certain valuable rights,
17 rights that I want to summarize for you now. These rights
18 include a continuing right to plead not guilty to these
19 charges. You have a right to put the prosecutors over
20 there to their burden of proving beyond a reasonable doubt
21 each and every element of the criminal offenses you're
22 charged with.

23 They would be required to do this at a jury
24 trial, which means that twelve people from the local
25 community would be selected to sit and listen to the

1 evidence in your case. And before you could be found
2 guilty by that jury, they must unanimously agree and
3 find -- that means all twelve of them -- that the
4 government had proven these charges beyond a reasonable
5 doubt.

6 Now, during that entire process your attorney
7 would continue to represent you and be free to question,
8 cross-examine, test and challenge any evidence that the
9 government presented. Although not required to do so,
10 your lawyer can call witnesses on your behalf and in your
11 defense. He actually has the power to subpoena and compel
12 witnesses to do so, and one of those witness, of course,
13 can be you. You have the right to testify at your trial,
14 but importantly, you're not required to do that.

15 If you decided not to testify, no one would make
16 you testify. And that jury I spoke of a moment ago, they
17 would be specifically instructed by the judge that they
18 could not take into account your decision to remain silent
19 in making their final determination as to whether or not
20 the government had proven these charges against you beyond
21 a reasonable doubt.

22 Did you understand this summary of rights that I
23 just gave?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Do you understand that by offering a

1 plea or pleas today, Mr. Seibert, you'll be waiving and
2 giving up these rights?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Is it still your desire to enter
5 pleas today?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Mr. Seibert, recalling
8 the charge in Count 1 as well as the charge in Count 2 of
9 the information -- whoops, before I get to that.

10 An information means that in your case, the
11 federal prosecutors have sworn out the charges against
12 you. There's nothing wrong with this. The law provides
13 for it and it happens all the time. But you do have the
14 right to have this matter presented to the local federal
15 grand jury for an independent determination as to whether
16 or not there's probable cause to believe that you've
17 actually committed this offense.

18 But if you and your lawyer believe it's
19 appropriate, you can, instead, proceed on the basis of the
20 information that we went over with -- together earlier.
21 So and in this regard, I have in front of me a document
22 that's been signed by you and your lawyer entitled Waiver
23 of Indictment.

24 My question to you, to the point is, are you
25 waiving and giving up your right to a presentation to a

1 grand jury and a independent determination of probable
2 cause by way of indictment, and instead, are you electing
3 to proceed on the basis of an information?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: All right, sir. Then that's what
6 we'll do and now I'll get to the point.

7 Understanding the charges in Counts 1 and 2 of
8 the information, recalling the statutory punishment ranges
9 that you face in relation to those two charges, and
10 understanding the important rights that you have, but
11 rights that you'll be giving up, by offering a plea, how
12 do you plead to the charge that you violated Count 1,
13 guilty or not guilty?

14 THE DEFENDANT: Guilty.

15 THE COURT: And how do you plead to the charge
16 that you violated Count 2, guilty or not guilty?

17 THE DEFENDANT: Guilty.

18 THE COURT: Are you pleading guilty freely and
19 voluntarily?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Has anyone forced or threatened you
22 in any way to get you to plead guilty?

23 THE DEFENDANT: None whatsoever.

24 THE COURT: Other than the benefits of your plea
25 agreement, has anyone promised you any benefits in

1 exchange for your plea?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: Has anyone promised or guaranteed in
4 advance what your eventual sentence will be in exchange
5 for your plea?

6 THE DEFENDANT: No, your Honor.

7 THE COURT: Mr. Seibert, recalling that you're
8 under oath, are you telling me that you're pleading guilty
9 to these two charges because you're guilty of them and for
10 no other reason?

11 THE DEFENDANT: I'm guilty. Yes, sir.

12 THE COURT: All right, Mr. Seibert. We're almost
13 done. I have a final obligation to find that there's a
14 factual basis or an independent reason to believe that you
15 actually committed this offense. We've talked about your
16 plea agreement, but importantly, on pages 3, 4, 5, 6, 7, 8
17 and 9, the prosecutors have set out in detail the facts
18 that they believe they would have proven beyond a
19 reasonable doubt if called upon to do so at a trial in
20 your case.

21 Now I'm asking you specifically as it relates to
22 those facts, are they accurate?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: To the extent they described your
25 behavior and what you did wrong, are they true?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: All right. Mr. Seibert, I am going
3 to find that your pleas to Counts 1 and 2 of the
4 information have been freely and voluntarily made; that
5 you understand those two separate charges; that you
6 understand those two separate statutory punishment ranges
7 and the fact that they can be combined together; that you
8 understand the important rights that you have, but rights
9 that you have given up, by offering a plea; that you are
10 satisfied with the work that Mr. Roark's done for you in
11 this case; and that you are competent to enter a plea.

12 I'm also going to find that before you signed
13 your plea agreement, you read it, you reviewed it with
14 your lawyer. Your lawyer was able to answer any questions
15 that you had about its contents, you understand it, and
16 you agree to follow it and be bound by it in the future.

17 And then, lastly, I am going to find that there's
18 a factual basis or an independent reason to believe that
19 you've committed those two offenses that's based upon the
20 written facts that are set out within your plea agreement,
21 which absent an objection from either you or your lawyer
22 at this time, I intend to adopt for purposes of this plea
23 hearing; but it's also based upon your sworn testimony
24 here just a moment ago that those facts as applied to you
25 are true.

1 Having said all of this, your case will now be
2 referred to the probation office for the preparation of a
3 presentence report. A written draft of this report will
4 be shared with you and your lawyer well before your
5 sentencing hearing. Importantly, you'll have 14 days
6 after receiving a copy of this draft report to make any
7 objections to it.

8 From that point until your eventual sentencing
9 hearing, your attorney will continue to work with the
10 people in the probation office to resolve any objections
11 that you may have had to that draft report. Any
12 objections that cannot be resolved to your satisfaction
13 before the final report is prepared and your day of
14 sentencing arrives, those continuing objections will be
15 resolved by Judge Pitman at the time of your sentencing
16 hearing.

17 That's a brief description of what's going to be
18 happening, at least here within this courthouse, between
19 now and your sentencing date, and it brings our discussion
20 this morning -- or this afternoon to an end.

21 Mr. Seibert, do you have any questions for me
22 about any of the important issues we've talked about or
23 any questions about what's going to be happening next?

24 THE DEFENDANT: No, your Honor. You were very
25 thorough. Thank you.

1 THE COURT: You're welcome.

2 Mr. Seibert, my understanding is that this is
3 your first day in court in relation to this charge.

4 Is that right, Mr. Roark?

5 MR. ROARK: It's correct, your Honor.

6 THE COURT: So we have a couple of administrative
7 things that we need to go over, that is the conditions
8 governing your release, because I trust the prosecutors
9 are not seeking this man's detention.

10 MS. FERNALD: That's correct, your Honor.

11 THE COURT: All right. I know that you have
12 visited with the Pretrial Services Office. They're of the
13 opinion that there are conditions I could set that could
14 provide for the safety of the community and your
15 appearance in court. I've talked with them, I agree with
16 them. So my obligation now is to go over these conditions
17 carefully with you and so, here it goes.

18 First condition is that you're going to be
19 required to post an unsecured bond in the amount of
20 \$50,000. Now, it's unsecured because you really don't
21 have to post any money. What it does mean is, if you
22 violate any of these conditions, the government can use
23 this appearance bond to obtain a judgment against you and
24 then, use that judgment to levy against any property that
25 you have now or in the future.

1 So a bunch of steps have to take place. And,
2 quite frankly, your financial obligations are going to be
3 such that this is rather not meaningless but it's not all
4 that.

5 But do you understand this so far?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. The first condition is that
8 you agree not to violate any federal, state or local laws.
9 You're to cooperate in the collection of a DNA sample, if
10 one is requested of you, by an authorized official. You
11 are to advise the Court by and through your Pretrial
12 Services officer in advance and in writing of any changes
13 to your primary contact telephone number or your primary
14 residence, that is, where you live.

15 And it should go without saying, you must appear
16 in court when you're supposed to. Mr. Roark will help you
17 with that. But ultimately, it's your responsibility to be
18 in court on the appropriate date and at the appropriate
19 time.

20 Are you with me so far?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Your release is going to be
23 supervised by the people in the Pretrial Services Office.
24 In simple terms, you need to do whatever they tell you to
25 do, whenever they tell you to do it. You're to continue

1 or actively seek employment. You're to surrender your
2 passport, if you haven't already, to the U.S. Pretrial
3 Services Office.

4 You're not to obtain another passport or other
5 international travel document. Your travel is restricted
6 to Travis County and the counties that immediately
7 surround Travis County. Travel outside of those counties
8 is prohibited unless you get the advance permission of
9 your Pretrial Services officer.

10 You're to avoid all contact, directly or
11 indirectly, with any person who is or may be a victim or
12 witness of the investigation or prosecution. You're to
13 get medical or psychiatric treatment if the Pretrial
14 Services Office believes that's appropriate. You're not
15 to possess -- my understanding is, you don't have
16 failures.

17 THE DEFENDANT: No, sir.

18 THE COURT: Good. You're not to possess a
19 firearm, destructive device or weapon of any kind. You're
20 not to use alcohol excessively. You're not to use or
21 unlawfully possess a narcotic drug or other controlled
22 substance unless it's prescribed to you by a doctor. You
23 are not to obtain any new lines of credit or bank
24 accounts, from this point forward, without obtaining
25 permission of Pretrial Services.

1 This one's going to be hard, but in these kind of
2 cases, we've gotta do it. You have to certify within 30
3 days that all of your current clients are notified of this
4 pending federal case, and you'll need to do that to the
5 satisfaction of Pretrial. And future clients need to be
6 so advised.

7 And then, lastly, today, when you and I are done
8 visiting, you're going to need to go down to the third
9 floor for processing by the Marshal's Service. That's the
10 printing, fingerprinting -- fingerprinting, photograph,
11 that kind of thing. And then, you'll get last
12 instructions from Mr. Palomares or one of his colleagues
13 in Pretrial, and then, you're released from this
14 courthouse today as authorized.

15 Do you understand all the conditions I've gone
16 over with you?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: I'm required to tell you what will
19 happen if you fail to abide by any of these conditions.
20 In simple terms, a warrant's going to be issued for your
21 arrest. Like Mr. Mahaffee here a minute ago, if you get
22 arrested, you'll probably be detained until your case is
23 concluded.

24 Now, besides the obvious inconvenience of sitting
25 in jail when you didn't need to be there is the fact that

1 that's going to work a hardship upon you and your lawyer
2 to prepare for this sentencing hearing. So it's
3 critically important that you abide by these conditions.
4 The law provides there are certain types of violations
5 that carry with it the possibility of new criminal
6 charges, such as if you fail to appear in court when
7 you're supposed to, you can be charged with failure to
8 appear, brand-new criminal offense.

9 Similarly if you obstruct justice within the
10 meaning of the law, you can charged with obstruction of
11 justice. In my experience, that manifests itself with a
12 man who's been charged with a crime and is reaching back,
13 trying to talk to witnesses or, in your case, investors.
14 Just don't do it. It sounds like you've been very
15 cooperative with the government. You've hired a really
16 good lawyer, let them -- let your lawyer work with them to
17 do any of that type of work.

18 So do you understand these warnings, as well?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. You and I know each other
21 by sight. I do wish you good luck, sir, as this case
22 moves forward. And you have my word that this is between
23 you and I in this public courtroom, all right?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. Good luck, y'all.

1 MR. ROARK: Thank you, Judge.

2 (Proceedings conclude at 1:52 p.m.)

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4
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6
7
8 REPORTER'S CERTIFICATE

9
10 I, LILY I. REZNIK, DO HEREBY CERTIFY THAT THE FOREGOING
11 WAS TRANSCRIBED FROM AN ELECTRONIC RECORDING MADE AT THE
12 TIME OF THE AFORESAID PROCEEDINGS AND IS A CORRECT
13 TRANSCRIPT, TO THE BEST OF MY ABILITY, MADE FROM THE
14 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER, AND THAT THE
15 TRANSCRIPT FEES AND FORMAT COMPLY WITH THOSE PRESCRIBED BY
16 THE COURT AND JUDICIAL CONFERENCE OF THE UNITED STATES.

17
18 /s/Lily I. Reznik

July 28, 2021

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DATE